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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,907	12/16/2003	Frank Markus Rinderknecht	P24671	3889
7055	7590	08/19/2004	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			KEENAN, JAMES W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,907

Applicant(s)

RINDERKNECHT, FRANK
MARKUS

Examiner

James Keenan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/464,445.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/16/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

1. The status of parent application 10/189,743 as U.S. Patent No. 6,688,837 should be added to the first paragraph of the specification.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the longitudinally adjustable lifting arm (claim 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is stated that the "at least one swivel arm comprises swivel arms located on both sides of the cargo bed" and that the connecting bridge is coupled to the swivel arms to form a swivel yoke; however, it is also stated that "a swivel arm is ... coupled around one of ... two swivel axes, and ... the swivel arms are coupled together" through a movable connection piece to form a parallelogram-like structure. This is confusing and inaccurate. While it is true that two swivel arms may be connected by the connecting bridge to form a yoke, and two swivel arms may be connected by a connection piece to form a parallelogram, the same two swivel arms do not form both of these structures. Since the claim refers to "the swivel arms" when describing the parallelogram, and the only swivel arms previously mentioned are those which form the yoke, the claim is inaccurate and incomplete.

The same is also true for claim 11.

It is also noted that the recitation of "parallelogram-like" is vague.

In claim 9, it is not understood how "said one of a curved and bent section" can be "formed by said connection piece", since, according to claim 8, the swivel arm comprises the curved or bent section. This also applies to claim 19.

In claim 17, it is not clear what is meant by "longitudinally adjustable".

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 7, 10-12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Thatcher (US 3,276,610).

Thatcher shows a device for loading and unloading an open cargo bed of a pick-up vehicle, including swivel arms 26 connected by bridge 30 to form a swivel yoke, and arms 88 connected to arms 26 by movable connecting pieces 80 to form parallelogram structures, wherein the swivel arms include longitudinally spaced swivel axes at the same height relative to the bed.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher.

Thatcher shows the swivel axes to lie on above the plane of the cargo bed, rather than on or beneath the bed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher by having the swivel axes lie on or beneath the plane of the cargo bed, as this would simply be an alternate equivalent design expediency which would require no undue experimentation and produce no unexpected results.

9. Claims 2, 8, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher in view of Olson (US 2,689,053).

Thatcher does not show the swivel yoke to form a roll bar for the vehicle cab, nor does the swivel arm form a bent or curved section.

Olson shows both of these features in a similar apparatus.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher by having the swivel yoke form a roll bar for the vehicle cab and the swivel arm form a bent or curved section, as shown by Olson, as this would simply be the substitution of desirable and well known features in the same environment. Olson also clearly teaches the features of claims 15-16, and the incorporation thereof into the apparatus of Thatcher would be a further expediency.

10. Claims 3, 13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher in view of Moriwaki (JP 54-9823).

Although Thatcher shows a load uptake device 44, it is not connected to the movable connection piece.

Moriwaki shows a similar apparatus with load engaging structure 11 connected to movable connection piece 7.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher by coupling the load uptake device to the movable connection piece, as shown by Moriwaki, as this would simply be an alternate equivalent choice of design.

11. Claims 1, 3, 5-7, 10-13, 15, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriwaki in view of Thatcher.

Moriwaki shows the invention essentially as claimed except the swivel axes are not at the same height relative to the cargo bed.

As noted above, Thatcher shows this feature.


It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Moriwaki such that the swivel axes were at the same height, as shown by Thatcher, as this would simply be an art recognized design expediency.

12. Claims 4 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
8/16/04